

Amendments to the Drawings:

The attached sheets of drawings include changes to Figs. 3A, 3B, 3C, 4A, and 4B. These sheets, which include Figs. 3A, 3B, 3C, 4A, and 4B replace the original sheets including Figs. 3A, 3B, 3C, 4A, and 4B.

Attachment: Replacement Sheet 3 (Figs. 3A, 3B, 3C) and Replacement Sheet 4 (Figs. 4A,4B)
Annotated Sheets 3 and 4 Showing Changes

REMARKS/ARGUMENTS

Prior to entry of this Amendment, claims 12-15 and 22-25 were pending in this application. Claims 12, 24, and 25 have been amended, no claims have been added, and no claims have been canceled herein. Therefore, claims 12-15 and 22-25 remain pending. Applicant respectfully requests reconsideration of these claims for at least the reasons presented below.

35 U.S.C. § 112 Rejection

Claims 24 and 25 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Amendments have been made herein that are thought to overcome the reasons for the rejection. Therefore, the Applicants respectfully request withdrawal of the rejection.

35 U.S.C. § 102 Rejection, Alferness

Claims 12-14, 22 and 23 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 7,078,607 to Anton Perry Alferness (hereinafter "Alferness"). The Applicant respectfully submits the following arguments pointing out significant differences between claims 12-14, 22 and 23 submitted by the Applicants and Alferness.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully argue that Alferness fails to disclose each and every claimed element. For example, Alferness fails to disclose, either expressly or inherently, a

storage medium having audio tracks comprising complete songs and a number of different versions for at least one of the complete songs.

Alferness is directed to "music playback software, and, more specifically, to dynamically changing music and sound compositions." (Col. 1, lines 13-15) Under Alferness, "a script tool is used to create scripts that are used to play back a song. The scripts are user definable and may, for example, define a specific order to play the components, define the components that may be played next to each other during the playback." (Col. 1, lines 60-65) However, Alferness does not disclose, expressly or inherently, a storage medium having audio tracks comprising complete songs and a number of different versions for at least one of the complete songs. Rather, Alferness discloses storing individual "sound elements" such as vocals, guitar, bass, drums, etc. (Col. 2, lines 55-58) These elements are mixed according to the controlling script when a selected song is played back. (Col. 3, lines 34-46, col. 6, lines 13-34, col. 6, line 61 - col. 7, line 7)

Claim 12, upon which claims 13-15 depend, recites in part a "storage medium comprising: N number of audio tracks wherein each audio track comprises a complete song; [and] V versions of at least one of the N audio tracks." Alferness does not disclose, expressly or inherently, a storage medium having audio tracks comprising complete songs and a number of different versions for at least one of the complete songs. Rather, Alferness discloses storing individual "sound elements" such as vocals, guitar, bass, drums, etc. and mixing these elements according to the controlling script when a selected song is played back. For at least these reasons, claims 12-15 should be allowed.

Claim 22, upon which claims 23-25 depend, recites in part "recording a song base version; mixing a first version of the song base version; mixing a second version of the song base version; mixing a third version of the song base version; [and] encoding the base, first, second and third versions on a storage medium." Alferness does not disclose, expressly or inherently, mixing a first version of the song base version, mixing a second version of the song base version,

mixing a third version of the song base version, and encoding the base, first, second and third versions on a storage medium. Rather, Alferness discloses storing individual "sound elements" such as vocals, guitar, bass, drums, etc. and mixing these elements according to the controlling script when a selected song is played back. For at least these reasons, claims 22-25 should be allowed.

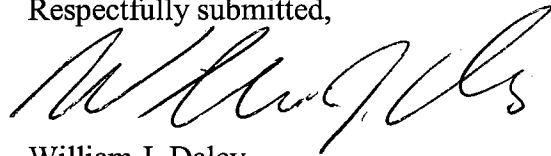
CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

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Respectfully submitted,



William J. Daley
Reg. No. 52,471

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000 (Denver office)
Fax: 303-571-4321 (Denver office)

WJD:sbm

Appendix: Replacement Sheets 3 and 4
 Annotated Sheets 3 and 4